

only with the permission of the Environmental Appeals Board.

(b) *Sua sponte review by the Environmental Appeals Board.* Whenever the Environmental Appeals Board determines sua sponte to review an initial decision, the Environmental Appeals Board shall serve notice of such intention on the parties within forty-five (45) days after the initial decision is served upon the parties. The notice shall include a statement of issues to be briefed by the parties and a time schedule for the service and filing of briefs.

(c) *Scope of appeal or review.* If the Environmental Appeals Board determines that issues raised, but not appealed by the parties, should be argued, it shall give counsel for the parties reasonable written notice of such determination to permit preparation of adequate argument. Nothing herein shall prohibit the Environmental Appeals Board from remanding the case to the Presiding Officer for further proceedings.

(d) *Argument before the Environmental Appeals Board.* The Environmental Appeals Board may, upon request of a party or sua sponte, assign a time and place for oral argument after giving consideration to the convenience of the parties.

[45 FR 24363, Apr. 9, 1980, as amended at 57 FR 5325, Feb. 13, 1992]

Subpart G—Final Order on Appeal

§ 22.31 Final order on appeal.

(a) *Contents of the final order.* When an appeal has been taken or the Environmental Appeals Board issues a notice of intent to conduct a review sua sponte, the Environmental Appeals Board shall issue a final order as soon as practicable after the filing of all appellate briefs or oral argument, whichever is later. The Environmental Appeals Board shall adopt, modify, or set aside the findings and conclusions contained in the decision or order being reviewed and shall set forth in the final order the reasons for its actions. The Environmental Appeals Board may, in its discretion, increase or decrease the assessed penalty from the amount recommended to be assessed in the decision or order being reviewed, except that if the order being reviewed is a default order, the Environmental Appeals

Board may not increase the amount of the penalty.

(b) *Payment of a civil penalty.* The respondent shall pay the full amount of the civil penalty assessed in the final order within sixty (60) days after receipt of the final order unless otherwise agreed by the parties. Payment shall be made by forwarding to the Regional Hearing Clerk a cashier's check or certified check in the amount of the penalty assessed in the final order, payable to the Treasurer, United States of America.

[45 FR 24363, Apr. 9, 1980, as amended at 57 FR 5326, Feb. 13, 1992]

§ 22.32 Motion to reconsider a final order.

Motions to reconsider a final order shall be filed within ten (10) days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision shall be directed to, and decided by, the Environmental Appeals Board. Motions for reconsideration directed to the Administrator, rather than to the Environmental Appeals Board, will not be considered, except in cases that the Environmental Appeals Board has referred to the Administrator pursuant to § 22.04(a) and in which the Administrator has issued the final order. A motion for reconsideration shall not stay the effective date of the final order unless specifically so ordered by the Environmental Appeals Board.

[57 FR 5326, Feb. 13, 1992]

Subpart H—Supplemental Rules

§ 22.33 Supplemental rules of practice governing the administrative assessment of civil penalties under the Toxic Substances Control Act.

(a) *Scope of these Supplemental rules.* These Supplemental rules of practice shall govern, in conjunction with the preceding consolidated rules of practice (40 CFR part 22), all formal adjudications for the assessment of any civil penalty conducted under section 16(a) of the Toxic Substances Control